**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE SIDE**

**WRIT PETITION NO. 4609 OF 2007**

ALONGWITH

WRIT PETITION NOS. 4615, 4624, 4625, 4638, 4639, 4640, 4641 OF 2007.

Brihans Natural Products Pvt. Limited and others .... Petitioner

versus

Special Recovery Officer, Suvarna Sahakari Bank Ltd. & ors..... Respondent.

Ms. Chandana Salgaonkar Radia for the petitioners
Shri R.V.Govilkar for respondents 1 and 2.
Shri R.M.Patne AGP for Respondent no.3.

**CORAM; A.P. DESHPANDE, J.**
**DATED; 04TH SEPTEMBER, 2007**

**P.C.;**

1. The respondent is a Co-operative Bank, which has obtained a certificate against the present petitioners under section 101 of the Co-operative Societies Act. In execution of the certificate, property of the petitioners has been attached. The order of attachment has been challenged by the petitioner by filing a revision before the Divisional Joint Registrar under section 154 of the Act. The revision so preferred by the petitioners have been rejected on the ground of non-compliance of section 154 (2A) of

the Maharashtra Co-operative societies Act which mandates deposit of 50% of the amount at the time of filing of the revision, for the same being entertained.

2. The learned counsel for the petitioners has contended that the petitioners have not signed any document undertaking the liability in favour of the bank and as such the petitioners are not liable to pay the amount covered by the recovery certificate. If this be the position in substance the challenge is to the recovery certificate. Under the grab of challenging the attachment order, the petitioner is disputing the liability fastened under the certificate issued under section 101. The Dvl. Joint Registrar/Revisional authority being of this view, has dismissed the revision as the petitioner did not deposit the amount as mandated by sub section (2A) of section 154. Before this court, the petitioners are not ready to deposit the amount, with a view to have the revision restored to file. The learned counsel for the petitioner propose to file a suit and hence seeks to continue the interim order passed by this court. I do not see any justification to continue the interim order when the petitioner is not ready and willing to prosecute the revision. The prayer thus stands rejected.

3. The learned counsel for the petitioner has placed reliance on an order passed by a learned Single Judge of this court dated 16-3-2005 in **W.P. 810/05.** In the said case the petitioner had not denied the liability under the recovery certificate but it only objected to the attachment of salary under Rule 107 of the Maharashtra Co-operative Societies Rules 1961. As the learned Single Judge had found that the challenge in the petition and the revision was only to the attachment and not to the recovery certificate, it has allowed the writ petition, setting aside the order passed in revision. The said judgment has no application to the facts of the present case and it does not advance the case of the present petitioners.

4. The learned counsel for the respondent bank, on the contrary has relied upon the judgment reported in **2004(3) Bom.C.R. page 229** and to be precise on the observations made in para 8 of the judgment. I am in agreement with the view taken in this judgment by the learned Single Judge and thus conclude that there is no merit in the writ petitions.

5. There being no merit, the writ petitions are dismissed.

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